

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MONTE C. HOISINGTON,

Plaintiff,

v.

ROBIN WILLIAMS, et al.,

Defendants.

No. 09-5630 RJB/KLS

ORDER DENYING DEFENDANTS'  
MOTION TO STAY DISCOVERY

Before the Court is Defendants' motion to stay discovery of this matter pending submission of a dispositive motion. Dkt. 20. For the reasons stated below, the Court finds that the motion should be denied.

*DISCUSSION*

Plaintiff served defendants with a motion to request class action certification (Dkt. 19) on January 26, 2010 and discovery requests on February 1, 2010. Dkt. 20, p. 1. The court issued a Pretrial Scheduling Order on January 11, 2010. Dkt. 18. Defendants propose to file a dispositive motion within thirty to sixty days, in which they will raise the defense of qualified immunity. Dkt. 20, p. 2. Defendants assert that they should not have to respond to discovery requests and procedural motions until this court rules on the issue of qualified immunity and whether the suit against Defendants will proceed. *Id.* Defendants filed their response to Plaintiff's motion to request class action certification. Dkt. 25.

ORDER GRANTING MOTION TO STAY DISCOVERY - 1

1 The court has broad discretionary powers to control discovery. *Little v. City of Seattle*,  
2 863 F.2d 681, 685 (9<sup>th</sup> Cir. 1988). Upon showing of good cause, the court may deny or limit  
3 discovery. Fed. R. Civ. P. 26( c). A court may relieve a party of the burdens of discovery while  
4 a dispositive motion is pending. *DiMartini v. Ferrin*, 889 F.2d 922 (9<sup>th</sup> Cir. 1989), amended at  
5 906 F.2d 465 (9<sup>th</sup> Cir. 1990) *Rae v. Union Bank*, 725 F.2d 478 (9<sup>th</sup> Cir. 1984). When  
6 government officials raise the issue of qualified immunity, discovery should not proceed until  
7 this threshold issue is resolved by the court. *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S. Ct.  
8 2727, 2738 (1982); *Anderson v. Creighton*, 483 U.S. 635 646 n. 6, 107 S. Ct. 3034, 3042 n. 6  
9 (1987), *DiMartini v. Ferrin*, supra, 889 F.2d at 926. The *Harlow* qualified immunity standard is  
10 meant to protect public officials from the broad-ranging discovery that can be peculiarly  
11 disruptive of effective government. *Harlow*, 457 U.S. at 817.

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13 The *Harlow* ruling and its discussion of discovery restrictions was directed to the  
14 question of damages, not equitable relief. *Harlow*, 457 U.S. at 819 n. 34, 102 S.Ct. at 2739 n.  
15 34. See *Hoohuli v. Ariyoshi*, 741 F.2d 1169, 1175-76 (9th Cir.1984). As the Fourth Circuit has  
16 noted, “[a] present declaration of immunity from damage claims cannot avoid the diversion of  
17 [the officials'] attention from other official duties which the litigation [of the equitable claims]  
18 will occasion.” *Bever v. Gilbertson*, 724 F.2d 1083, 1087 (4th Cir.1984). Thus to the extent  
19 Plaintiff seeks discovery relating to his claims for equitable relief, defendants' request for a stay  
20 of discovery is without merit. As a practical matter, such a stay would be meaningful only if the  
21 damages discovery was significantly different from the discovery directed to the equitable  
22 claims.  
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1 Accordingly, the court finds that the requested stay should not be granted. However, it  
2 will defer consideration of Plaintiff's motion requesting class action certification until after the  
3 court has ruled on Defendants' motion to dismiss raising the issue of qualified immunity.

4 Accordingly, it is **ORDERED:**

- 5 (1) Defendants shall file a dispositive motion **on or before April 30, 2010.**  
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7 (2) Defendants' motion for stay of discovery (Dkt. 20) is **DENIED.**  
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9 (3) Plaintiff's motion for class certification (Dkt. 19) is **renoted for June 11, 2010.**  
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11 (4) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

12 DATED this 15th day of March, 2010.

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14 Karen L. Strombom  
15 United States Magistrate Judge  
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